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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,687	12/20/2001	Robert E. Ray JR.	SP-1212.1 (EVE01 P-778)	2319
20875	7590	07/16/2004	EXAMINER	
ROBERT W WELSH EVEREADY BATTERY COMPANY INC 25225 DETROIT ROAD P O BOX 450777 WESTLAKE, OH 44145			CANTELMO, GREGG	
			ART UNIT	PAPER NUMBER
			1745	
DATE MAILED: 07/16/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 10/034,687	Applicant(s) RAY ET AL.	
	Examiner Gregg Cantelmo	Art Unit 1745	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

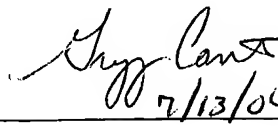
Claim(s) allowed: _____.

Claim(s) objected to: 8-12, 25-27 and 38-42.

Claim(s) rejected: 1-7, 13-24, 28-37, 43 and 44.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: See Continuation Sheet


Gregg Cantelmo
Primary Examiner
Art Unit: 1745
7/13/04

Continuation of 5. does NOT place the application in condition for allowance because: it does not provide sufficient evidence to overcome the prior art rejections of record.

Continuation of 10. Other: Applicant's arguments that JP '751 does not teach or suggest the invention of the rejected claims is not sufficiently persuasive. Applicant fails to provide sufficient evidence that the differences between the instant claims are not "slight" (it is unclear if by this term Applicant means unexpected?). The Examiner disagrees that the invention of JP '751 is like the conventional batteries shown in Figs. 6, 7 and 10 of JP '751. In fact the novelty of JP '751 lies in the fact that the majority of the seal member moves relative to the hub so that the seal is not broken and after venting of the battery the seal can reseal the battery adjacent to the hub. In addition Applicant's response fails to show that modification of the so-called "deficiencies" prior art of JP '751 results in unexpected results as opposed to being obvious modifications. It is held that the concept of moving the seal relative to the hub and variants therein would have been obvious to one of ordinary skill in the art and that a reduction in process steps to achieve the same result is well within the knowledge of one of ordinary skill in the art and fundamentally common-sense. In light of convincing evidence, it is held that the prior art rejections of record obviate the rejected claims. .